

Patent Docket No. P2871R1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Pan <i>et al.</i> Serial No.: 09/880,457 Filed: June 12, 2001 For: <i>NS4 Nucleic Acids and Polypeptides and Methods of Use for the Treatment of Body Weight Disorders</i>	Group Art Unit: 1647 Examiner: R. DeBerry
	CERTIFICATE OF FACSIMILE TRANSMISSION I hereby certify that this correspondence is being sent via facsimile to Commissioner of Patents and Trademarks, Washington, D.C. 20231, at facsimile number (703) 872-9306 on: Date: October 11, 2002 By: <i>Tina M. Ingrande</i> Tina M. Ingrande

Response to Restriction/Species Election

Commissioner of Patents and Trademarks
Washington, D.C. 20231

Sir:

This is in response to the Office Action (Paper No. 10) mailed herein on September 30, 2002.

Applicants hereby elect Group I, (Claims 1-18) drawn to isolated nucleic acid, vector, host cell and process for producing the polypeptide.

The Examiner appears to have further required Applicants (on page 5 of Paper No. 10) to elect a single nucleotide, polypeptide and ATCC Deposit No. The rationale for this requirement appears to be based in part on the fact that the specification contains three specifically identified nucleic acid molecules, polypeptides and ATCC Deposits. As a result, the Examiner's request appears to be an election of species request. In response, to the species election, Applicants hereby elect nucleic acid SEQ ID NO:1, polypeptide SEQ ID NO:4 and ATCC Deposit PTA-3376.

As this portion of the Examiner's request is really an election of species, and not a restriction, the Examiner is reminded of M.P.E.P. § 809.02(c) (B) (1) which prescribes that when a generic claim is found to be allowable . . . all claims to each of the additional species that are embraced by an allowable claim . . . that claims drawn to the non-elected species are no longer withdrawn since they are fully embraced by the allowed generic claim.

As a result, once review of the above elected species is found to be clear of the prior art, examination of the remaining species and full claim is proper.

While no fee is believed warranted for consideration of this response, the Commissioner is nonetheless authorized to charge any additional fees which may be required, including extension fees, or credit any overpayment to Deposit Account No. 07-0630.

The Examiner is invited to contact the undersigned at (650) 225-1489 in order to expedite the resolution of any issues.

Respectfully submitted,
GENENTECH, INC

Date: October 11, 2002

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